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BEFORE THE ARIZONA CORPORATION COMMISSION

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2009 MAR 16 A 9:32

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 16 2009

DOCKETED BY

IN THE MATTER OF JOHNSON UTILITIES, L.L.C.
FOR AN EXTENSION OF ITS SEWER
CERTIFICATE OF CONVENIENCE AND
NECESSITY IN PINAL COUNTY, ARIZONA

DOCKET NO. WS-02987A-07-0487

NOTICE OF NEW SEWAGE SPILLS

Swing First Golf LLC ("Swing First") hereby submits additional public comments in the above-captioned docket. According to published reports, Johnson Utilities LLC ("Johnson") has again spilled sewage into a residential neighborhood.

At the Commission's March 3, 2009, Open Meeting the Commission approved Johnson's application in this docket on a 3-2 vote. Commissioners were greatly concerned about a number of issues involving Johnson, particularly about an incident where raw sewage from Johnson's Pecan Water Reclamation Plant overflowed manholes, contaminated the Queen Creek Wash with E. coli and coliform, and endangered the safety of nearby residents of the Pecan Creek North subdivision. Commissioners sought assurance that these types of incidents would not happen again. Johnson assured the Commissioners that it had taken a number of steps to ensure that these had been isolated incidents that would not recur.

However, Johnson chose not to tell the Commissioners that another very similar contamination incident had already occurred. Exhibit A is a copy of a March 14, 2009, article from the East Valley Tribune. The Tribune reports that, on the morning of Feb. 22, 2009, just nine days before Open Meeting, about 9,000 gallons of wastewater backed up in Johnson's system, leaked out of two manholes, and spilled over into two retention basins at the Cambria subdivision near Ironwood and Ocotillo roads in Pinal County. Just as with the Pecan Creek

1 incident, Johnson blamed the spill on the lines becoming clogged with mop heads and grease.
2 According to the article, ADEQ is still investigating the spill.

3 As a public comment, Swing First suggests that the Commission consider, on its own
4 motion, amending its Decision in this docket, pursuant to A.R.S. § 40-252. Until Johnson can
5 resolve its current NOV's and convincingly demonstrate that these incidents will not recur, it
6 seems premature to allow Johnson to further extend its CC&N. However, there is no reason to
7 punish the school district, which Johnson appears to be able to serve as a contiguous parcel
8 pursuant to the provisions of Commission Rule R14-2-602(B).

9 Exhibit B is a suggested amendment for the Commission's consideration that would deny
10 Johnson's requested CC&N extension, but would not prohibit Johnson from providing
11 wastewater service to the schools located on the contiguous parcel.

12 RESPECTFULLY SUBMITTED on March 16, 2009.

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25 **Original** and 13 copies **filed**
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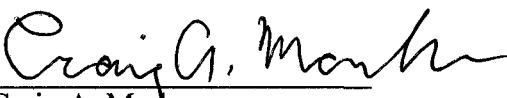
33 **Copy** of the foregoing **mailed**
34 on March 16, 2009, to:

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Tribune

EAST VALLEY • SCOTTSDALE

March 14, 2009

New sewage spill blamed on Johnson Utilities

By Amanda Keim
Tribune

While Johnson Utilities has successfully disinfected a Pinal County wash where 10,000 gallons of raw sewage spilled last year, the utility was back out cleaning another spill in different neighborhood three weeks ago.

The recent spill involved clogged pipes in the Cambria subdivision near Ironwood and Ocotillo roads in Pinal County, an incident the Arizona Department of Environmental Quality is still investigating.

About 9,000 gallons of wastewater backed up, leaked out of two manholes and spilled over into two retention basins on the morning of Feb. 22, according to an ADEQ report and Brian Tompsett, executive vice president for Johnson Utilities.

A neighborhood resident let the company know about the spill that morning, Tompsett said.

"We dispatched crews immediately and they got it cleaned up," Tompsett said. "There was no danger to any of the residents."

A report filed with ADEQ on Feb. 25 states crews found "an enormous amount of grease and mop heads" clogging two lines.

"Mop heads" refers to cloths and other materials clumped together in the system, Tompsett said.

The lines were flushed out and the retention basins were pumped and disinfected, Tompsett said. There haven't been any complaints from the neighborhood since.

ADEQ is still investigating the Cambria incident, ADEQ spokesman Mark Shaffer said in an e-mail.

"It is not known at this time if enforcement action will be taken," he wrote.

Johnson Utilities' first clean-up was the result of a 10,000 gallon spill in May 2008 that was caused by clogged sewage pumps near the Pecan Water Reclamation Plant on Gantzel Road south of Chandler Heights Road. Several thousand gallons of sewage found its way into the Queen Creek Wash near the Pecan Creek subdivision.

Elevated levels of E. coli, a potentially hazardous bacteria, were found in the wash for several months following the spill.

While Johnson Utilities was required to work out an agreement to clean the area with ADEQ, the utility disputed their leak caused the elevated bacteria levels, saying most of the sewage was cleaned up before it got to the wash. The company billed the disinfection work as a "public service."

ADEQ terminated the consent order, which stated the utility would clean the wash near the Pecan Creek neighborhood with potassium permanganate or be subjected to fines, in November, according to ADEQ documents.

The termination means the utility has complied with the terms of the consent order and the wash has been disinfected, Shaffer said.

Actual work was completed a couple months before the consent order was terminated, Tompsett said.

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3/14/2009

East Valley/ Scottsdale Tribune: New sewage spill blamed on Johnson Utilities

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Tompsett said that as far as he knows, there haven't been any other problems near the Pecan Creek neighborhood.



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**SUGGESTED AMENDMENT
TO DECISION****FINDINGS OF FACT**

Page 11, delete existing Paragraph 48 and replace with the following:

48. Subsequent to the August 7, 2008, hearing, ADEQ issued two more NOV's to Johnson, this time concerning Johnson's Section 11 wastewater treatment plant. ADEQ alleges that Johnson had improperly stored over 34,000 gallons of dangerous sewage sludge in open trenches on the plant site. ADEQ is concerned with preventing groundwater contamination as a result of the alleged improper storage. On October 8, 2008, ADEQ issued NOV 99135, and on October 20, 2008, ADEQ issued NOV 10272.

49. Yet another potential threat to the public safety has come to the Commission's attention. The Commission takes administrative notice of a March 14, 2009, report in the East Valley Tribune concerning a sewage discharge from Johnson's system at the Cambria subdivision near Ironwood and Ocotillo roads in Pinal County. According to the report, about 9,000 gallons of wastewater backed up, leaked out of two manholes, and spilled over into two retention basins on the morning of Feb. 22, 2009. ADEQ is still investigating the incident.

Renumber subsequent paragraphs.

Delete existing paragraph 59 and replace with the following:

60. The Commission is enormously concerned with the extent and number of Johnson's recent threats to public safety. These demonstrate that Johnson is not a fit and proper entity to extend its wastewater CC&N at the present time. The Commission expects that Johnson will devote all resources necessary to address the current violations and to prevent future violations. If these issues cannot be satisfactorily remedied, the Commission will employ all of its powers to ensure that Johnson provides safe and adequate wastewater service to its customers,

**SUGGESTED AMENDMENT
TO DECISION**

up to and including requiring Johnson to show cause why a manager should not be appointed to run its system.

61. It is not the intent of the Commission to punish customers for the transgressions of their utility. As discussed above, Johnson is already serving Ranch Elementary School; Combs High School is expected to open in August 2009; and the new middle school is scheduled to open in August 2011. Because the school parcel appears to be contiguous to Johnson's existing CC&N, the Commission is not prohibiting Johnson from providing wastewater service to these customers pursuant to the provisions of Commission Rule R14-2-602(B).

CONCLUSIONS OF LAW

Delete existing paragraphs 4, 5, and 6 and replace with new paragraph 4:

4. Johnson has not demonstrated that it is a fit and proper entity to extend its wastewater CC&N as requested in its application.

ORDER

Delete existing ordering paragraphs and replace with the following:

IT IS THEREFORE ORDERED that Johnson Utilities L.L.C.'s application for an extension of its wastewater Certificate of Convenience and Necessity to include the area described in Exhibit A, attached hereto, is hereby denied.

IT IS FURTHER ORDERED that Johnson Utilities L.L.C. is not prohibited from providing wastewater service to entities contiguous to its existing CC&N pursuant to the provisions of Commission Rule R14-2-602(B).

IT IS FURTHER ORDERED that this Decision shall become effective immediately.